

**BEFORE THE
DIVISION OF LICENSING
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

**CONSTANCE JEAN ROCK, L.M.
2118 Wilshire Boulevard, #377
Santa Monica, CA 90403**

Licensed Midwife No. LM 117

Respondent.

MBC No: 1M-2003-147417

OAH No: L-2005060199

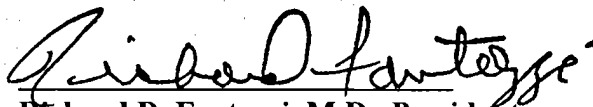
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order of the Division of Licensing of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 15, 2006

IT IS SO ORDERED this 16th day of October, 2006.

MEDICAL BOARD OF CALIFORNIA



**Richard D. Fantozzi, M.D., President
Division of Licensing**

1 BILL LOCKYER, Attorney General
of the State of California
2 GLORIA L. CASTRO, State Bar No. 193304
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6804
5 Facsimile: (213) 897-9395

6 Attorneys for Complainant

7 **BEFORE THE**
8 **DIVISION OF LICENSING**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **CONSTANCE ROCK**
2118 Wilshire Blvd., #377
Santa Monica, CA 90403

14 Licensed Midwife No. LM 117

15 Respondent.

Case No. 1M 2003 147417

OAH No. L-2005-060199

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. David T. Thornton (Complainant) is the Executive Director of the
21 Midwifery Program of the Division of Licensing of the Medical Board of California. He
22 brought this action solely in his official capacity and is represented in this matter by Bill
23 Lockyer, Attorney General of the State of California, by Gloria L. Castro, Deputy Attorney
24 General.

25 2. Respondent Constance Rock (Respondent) is represented in this
26 proceeding by attorney Jonathan Rose, Esq. whose address is 3555 Fifth Avenue, Suite 100,
27 San Diego, CA 92103.

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3. On or about February 8, 2000, the Midwifery Program issued Licensed Midwife No. LM 117 to Constance Rock (Respondent). The Midwifery License was in full force and effect at all times relevant to the charges brought in Accusation No. 1M 2003 147417 and will expire on February 8, 2008, unless renewed.

JURISDICTION

4. Accusation No. 1M 2003 14741 was filed before the Division of Licensing for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 17, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 1M 2003 14741 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 1M 2003 14741. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including her right to a hearing on the charges and allegations in the Accusation; her right to be represented by counsel at her own expense; her right to confront and cross-examine the witnesses against her; her right to present evidence and to testify on her own behalf; her right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; her right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations
3 in Accusation No. 1M-2003-147417, if proven at a hearing, constitute cause for imposing
4 discipline upon her Midwifery License.

5 9. For the purpose of resolving the Accusation without the expense and
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 set forth a factual basis for one or more of the charges and allegations in Accusation No.
8 1M-2003-147417, and that Respondent hereby gives up her right to contest those charges.

9 10. Respondent agrees that her Midwifery License is subject to
10 discipline under section 2519, subdivision (a), of the Business and Professions Code, and
11 she agrees to be bound by the Division's imposition of discipline as set forth in the
12 Disciplinary Order below.

13 CONTINGENCY

14 11. This stipulation shall be subject to approval by the Division of
15 Licensing. Respondent understands and agrees that counsel for Complainant and the staff
16 of the Midwifery Program may communicate directly with the Board regarding this
17 stipulation and settlement, without notice to or participation by Respondent or her counsel.
18 By signing the stipulation, Respondent understands and agrees that she may not withdraw
19 her agreement or seek to rescind the stipulation prior to the time the Board considers and
20 acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
21 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
22 paragraph, it shall be inadmissible in any legal action between the parties, and the Board
23 shall not be disqualified from further action by having considered this matter.

24 12. In consideration of the foregoing admissions and stipulations, the
25 parties agree that the Board may, without further notice or formal proceeding, issue and
26 enter the following Disciplinary Order:

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1 Respondent shall submit a certification of successful completion to the
2 Division or its designee not later than 15 calendar days after successfully completing the
3 course, or not later than 15 calendar days after the effective date of the Decision, whichever
4 is later.

5 3. MIDWIFERY EDUCATION COURSES Within 60 calendar
6 days of the effective date of this Decision, and on an annual basis thereafter, respondent
7 shall submit to the Division or its designee for its prior approval educational program(s) or
8 course(s) which shall not be less than 20 hours per year, for each year of probation. The
9 educational program(s) or course(s) shall be aimed at correcting any areas of deficient
10 practice or knowledge and shall be limited to classroom, conference, or seminar settings.
11 The educational program(s) or course(s) shall be at respondent's expense and shall be in
12 addition to the education requirements for renewal of licensure.

13 Respondent shall submit a certification of successful completion to the
14 Division or its designee not later than 15 calendar days after successfully completing the
15 midwifery education courses in satisfaction of this condition.

16 4. SOLO PRACTICE For the duration of the term of probation,
17 Respondent is prohibited from engaging in the solo practice of midwifery. During such
18 time Respondent must practice with another California Licensed Midwife, or a physician
19 and surgeon, whose license is in good standing within the State of California (i.e. with no
20 current disciplinary action taken against it). Respondent shall inform the Division or its
21 designee of the person with whom she is practicing. This term shall not be construed to
22 require the physical presence of the California Licensed Midwife or the physician and
23 surgeon when Respondent is practicing midwifery.

24 5. NOTIFICATION Within 60 calendar days of the effective date of
25 this Decision, the respondent shall provide a true copy of the Decision and Accusation to
26 the licensed physician and surgeon with whom respondent has a relationship in compliance
27 with Business and Professions Code section 2507, subdivision (b).

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Respondent shall submit proof of compliance with this term to the Division or its designee within 15 calendar days of complying with this term.

6. OBEY ALL LAWS Respondent shall obey all federal, state and local laws, all rules governing the practice of midwifery in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

7. QUARTERLY DECLARATIONS Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

8. PROBATION UNIT COMPLIANCE Respondent shall comply with the Division's probation unit. Respondent shall, at all times, keep the Division informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Division or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Respondent shall not engage in the practice of midwifery, as defined in Business and Professions Code section 2507, subdivisions (a) and (b), in respondent's place of residence. Respondent shall maintain a current and renewed California midwife license.

Respondent shall immediately inform the Division, or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30 calendar days.

9. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall be available in person for interviews either at respondent's place of business or at the probation unit office, with the Division or its designee, upon request at various intervals, and either with or without prior notice throughout the term of probation.

10. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should leave the State of California to reside or to practice, respondent shall

1 notify the Division or its designee in writing 30 calendar days prior to the dates of departure
2 and return. Non-practice is defined as any period of time exceeding 30 calendar days in
3 which respondent is not engaging in any activities defined in Sections 2507 of the Business
4 and Professions Code.

5 All time spent in an intensive training program outside the State of
6 California which has been approved by the Division or its designee shall be considered as
7 time spent in the practice of midwifery within the State. Periods of temporary or permanent
8 residence or practice outside California will not apply to the reduction of the probationary
9 term. Periods of temporary or permanent residence or practice outside California will
10 relieve respondent of the responsibility to comply with the probationary terms and
11 conditions with the exception of this condition and the following terms and conditions of
12 probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

13 Respondent's license shall be automatically canceled if respondent's periods
14 of temporary or permanent residence or practice outside California total two years.
15 However, respondent's license shall not be canceled as long as respondent is residing and
16 practicing midwifery in another state of the United States and, to the extent applicable, is
17 on active probation with the medical and/or midwifery licensing authority of that state, in
18 which case the two year period shall begin on the date probation is completed or terminated
19 in that state.

20 11. FAILURE TO PRACTICE MIDWIFERY In the event respondent
21 resides in the State of California and for any reason respondent stops practicing midwifery
22 in California, respondent shall notify the Division or its designee in writing within 30
23 calendar days prior to the dates of non-practice and return to practice. Any period of non-
24 practice within California, as defined in this condition, will not apply to the reduction of the
25 probationary term and does not relieve respondent of the responsibility to comply with the
26 terms and conditions of probation. Non-practice is defined as any period of time exceeding
27 30 calendar days in which respondent is not engaging in any activities defined in sections
28 2507 of the Business and Professions Code.

1 All time spent in an intensive training program which has been approved by
2 the Division or its designee shall be considered time spent in the practice of midwifery.

3 Respondent's license shall be automatically canceled if respondent resides in
4 California and for a total of two years, fails to engage in California in any of the activities
5 described in Business and Professions Code sections 2507.

6 12. COMPLETION OF PROBATION Respondent shall comply with
7 all financial obligations not later than 120 calendar days prior to the completion of
8 probation. Upon successful completion of probation, respondent's certificate shall be fully
9 restored.

10 13. VIOLATION OF PROBATION Failure to fully comply with any
11 term or condition of probation is a violation of probation. If respondent violates probation
12 in any respect, the Division, after giving respondent notice and the opportunity to be heard,
13 may revoke probation and carry out the disciplinary order that was stayed. If an
14 Accusation, Petition to Revoke Probation, or an Interim Suspension Order is filed against
15 respondent during probation, the Division shall have continuing jurisdiction until the matter
16 is final, and the period of probation shall be extended until the matter is final.

17 14. COST RECOVERY Within 90 calendar days from the effective
18 date of the Decision or other period agreed to by the Division or its designee, respondent
19 shall reimburse the Division the amount of \$750.00 for its investigative and prosecution
20 costs. The filing of bankruptcy or period of non-practice by respondent shall not relieve the
21 respondent of her obligation to reimburse the Division for its costs.

22 15. LICENSE SURRENDER Following the effective date of this
23 Decision, if respondent ceases practicing due to retirement, health reasons or is otherwise
24 unable to satisfy the terms and conditions of probation, respondent may request the
25 voluntary surrender of respondent's license. The Division reserves the right to evaluate
26 respondent's request and to exercise its discretion whether or not to grant the request, or to
27 take any other action deemed appropriate and reasonable under the circumstances. Upon
28 formal acceptance of the surrender, respondent shall within 15 calendar days deliver

1 respondent's wallet and wall certificate to the Division or its designee and respondent shall
2 no longer practice midwifery. Respondent will no longer be subject to the terms and
3 conditions of probation and the surrender of respondent's license shall be deemed
4 disciplinary action. If respondent re-applies for a midwifery license, the application shall
5 be treated as a petition for reinstatement of a revoked certificate.

6 16. PROBATION MONITORING COSTS Respondent shall not be
7 required to pay the costs associated with probation monitoring.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order
10 and have fully discussed it with my attorney, Jonathan Rose. I understand the stipulation
11 and the effect it will have on my Midwifery License. I enter into this Stipulated Settlement
12 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by
13 the Decision and Order of the Division of Licensing, Medical Board of California.

14 DATED: 9/20/06

15 
16 CONSTANCE ROCK
Respondent

17 I have read and fully discussed with Respondent Constance Rock the terms
18 and conditions and other matters contained in the above Stipulated Settlement and
19 Disciplinary Order. I approve its form and content.

20
21 DATED: _____

22
23 _____
24 JONATHAN ROSE, ESQ.
Attorney for Respondent

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2 no longer practice midwifery. Respondent will no longer be subject to the terms and
3 conditions of probation and the surrender of respondent's license shall be deemed
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12 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by
13 the Decision and Order of the Division of Licensing, Medical Board of California.

14 DATED: _____.

15 _____
16 CONSTANCE ROCK
Respondent

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18 and conditions and other matters contained in the above Stipulated Settlement and
19 Disciplinary Order. I approve its form and content.

20
21 DATED: 09/19/06.

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23 Jonathan H Rose
24 JONATHAN ROSE, ESQ.
Attorney for Respondent

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DATED: 10/5/02

2000

Attorneys for Complainant

Exhibit A

Accusation No. 1M-2003-147417

1 BILL LOCKYER, Attorney General
of the State of California
2 PAUL C. AMENT, State Bar No. 60427
Deputy Attorney General
3 For GLORIA L. CASTRO
Deputy Attorney General
4 California Department of Justice
300 South Spring Street, Suite 1702
5 Los Angeles, California 90013
Telephone: (213) 897-7001
6 Facsimile: (213) 897-9395
7 Attorneys for Complainant

8
9
10 BEFORE THE
DIVISION OF LICENSING
11 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 1M-2003-147417

14 CONSTANCE JEAN ROCK
2118 Wilshire Boulevard #377
15 Santa Monica, California 90403

ACCUSATION

16 Licensed Midwife Certificate No. LM 117

17 Respondent.

18

19 Complainant alleges:

20 PARTIES

21 1. David T. Thornton ("Complainant") brings this Accusation solely
22 in his official capacity as the Executive Director of the Midwifery Program, Department
23 of Consumer Affairs.

24 2. On or about February 8, 2000, the Division of Licensing issued
25 Licensed Midwife Certificate Number LM 117 to Constance Jean Rock ("Respondent").
26 The Licensed Midwife Certificate was in full force and effect at all times relevant to the
27 charges brought herein and will expire on February 8, 2006, unless renewed.
28

JURISDICTION

3. This Accusation is brought before the Division of Licensing ("Board") for the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2052 of the Code states:

"(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment in the state prison, by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

"(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

"(c) The remedy provided in this section shall not preclude any other remedy provided by law."

5. Section 2234 of the Code states, in pertinent part:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1 "...

2 "(b) Gross negligence. . . ."

3 6. Section 2519 of the Code states, in pertinent part:

4 "The board may suspend or revoke the license of a midwife for any of the
5 following:

6 "(a) Unprofessional conduct, which includes, but is not limited to,
7 all of the following:

8 "(1) Incompetence or gross negligence in carrying out the usual functions
9 of a licensed midwife.

10

11 "(e) Violating or attempting to violate, directly or indirectly, or assisting
12 in or abetting the violation of, or conspiring to violate any provision or
13 term of this chapter. . . ."

14 7. Section 2264 of the Code states:

15 "The employing, directly or indirectly, the aiding, or the abetting of any
16 unlicensed person or any suspended, revoked, or unlicensed practitioner to
17 engage in the practice of medicine or any other mode of treating the sick or
18 afflicted which requires a license to practice constitutes unprofessional
19 conduct.

20 8. Section 125.3 of the Code provides, in pertinent part, that the
21 Division may request the administrative law judge to direct a licentiate found to have
22 committed a violation or violations of the licensing act to pay a sum not to exceed the
23 reasonable costs of the investigation and enforcement of the case.

24
25 BACKGROUND FACTS

26 9. At all times relevant to the Causes for Discipline alleged herein,
27 Respondent and Tai Carson ("Carson") were co-owners of the Hollywood Birth Center
28 ("HBC"), located in Los Angeles. Among other things, HBC provided pre-natal care and

1 home birth services. Additionally, HBC itself had a birthing room for use of HBC's
2 clients. Respondent and Carson were partners in the ownership and operation of HBC.

3 10. At all times relevant to the Causes for Discipline alleged herein
4 Carson did not possess a physician and surgeon's certificate, a licensed midwife
5 certificate, a license as a registered nurse, or any other professional health care
6 professional license issued by the State of California. These facts were known to
7 Respondent.

8 11. Although Respondent possessed a licensed midwife certificate, at
9 no time relevant to the Causes for Discipline alleged herein did she possess a physician's
10 and surgeon's certificate.

11
12 FIRST CAUSE FOR DISCIPLINE

13 (Assisting and Abetting Unlawful Practice of Medicine—Patients Tara P. and Milka F.)

14 12. Respondent is subject to disciplinary action under section 2519,
15 subdivision (e), of the Code in that she assisted in and abetted the unlawful practice of
16 medicine by Carson in violation of sections 2052 and 2264 of the Code; conspired with
17 Carson to effect violation section 2052 of the Code by Carson's unlawful practice of
18 medicine; and, by virtue of her partnership with Carson, was vicariously responsible for
19 Carson's unlawful practice of medicine in violation of section 2052 of the Code. The
20 circumstances are as follows.

21 Patient Tara P.

22 13. On or about November 27, 2001, Patient Tara P.¹ presented to
23 the office of Kim Marie Meyer, M.D., for prenatal care. At the time, Tara P. was found
24 to be seven weeks pregnant, with a due date of July 12, 2002.

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28 1. The full names of the patients to whom reference is made herein will be disclosed to
Respondent upon an appropriate request for discovery.

1 14. On or about March 12, 2003, Tara P. transferred from Dr. Meyer
2 to HBC for prenatal care and childbirth services. At the time, Tara P. was 23 weeks
3 pregnant. She had nine prenatal appointments at HBC. Four of these appointments were
4 with Respondent. Five of the visits, including the initial visit, were with Carson, who, as
5 mentioned, was legally incapable of practicing medicine or midwifery.

6 15. At about 2:30 a.m. on July 7, 2002, Tara P. began experiencing
7 contractions. At about 9:00 a.m., Tara P. called Respondent and Carson. Respondent
8 was not available, and Carson instructed Tara P. to call her back later. Tara P. also called
9 Sufi Ertur, a "doula"² who worked as an "apprentice" at HBC. Ertur arrived at the home
10 of Tara P. and her husband at 1:00 p.m. About 8:00 p.m., she accompanied Mr. and Mrs.
11 P. to HBC.

12 16. Carson arrived at approximately 8:45 p.m. She examined Tara P.
13 and determined that she was 4.5 cm. At approximately 12:45 a.m. (July 8), Carson
14 determined that Tara P. was 5.5 cm. At that point, Carson artificially ruptured the
15 membranes. There was meconium stained fluid noted.

16 17. At approximately 1:05 a.m., Tara P.'s temperature was noted to
17 be 99.4° F. At approximately 5:30 a.m., Carson administered intravenous ampicillin (2
18 grams).

19 18. After Carson determined that Tara P. was at 9.5 cm, she told Tara
20 P. that she would "move the lip over" and that Tara P. would then be at 10 cm.
21 Thereafter, Carson instructed Tara P. to push. She also instructed Tara P.'s husband to
22 apply fundal pressure to help with the delivery. He did so. Tara P. pushed for almost
23 three hours. At approximately 8:30 a.m. she requested to be transported to Cedars-Sinai
24 Medical Center. Mr. P. drove Tara P. and Carson to Cedars-Sinai.

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27 2. A "doula" is a "woman who assists another woman during labor and provides support to
28 her, the infant, and the family after childbirth." *The American Heritage Dictionary of the
English Language* (4th ed. 2000).

1 19. At 10:38 a.m., Tara P.'s baby was delivered by cesarean section at
2 Cedars-Sinai. Meconium was noted in the amniotic fluid. The baby was in the occiput
3 posterior position (back of the head toward the back of the mother), and weighed 9
4 pounds and 2 ounces.

5 20. Carson's care and treatment of Tara P. on July 7 and 8, 2003,
6 including the rupturing of the membranes, the administration of intravenous ampicillin,
7 the instruction to Tara P. to push, and the instruction to Tara P.'s husband to apply fundal
8 pressure constituted the unlawful practice of medicine in violation of sections 2052 and
9 2264 of the Code.

10 21. In rendering medical care and treatment Tara P. on July 7 and 8,
11 2003, Carson was acting within the ordinary course of her partnership with Respondent.
12 Moreover, the unlawful acts performed by Carson on July 7 and 8, 2003, were the natural
13 and probable consequences of Respondent's partnership arrangement with Carson, which
14 arrangement contemplated the unlicensed practice of medicine by Carson.

15 Patient Milka F.

16 22. Patient Milka F. was first seen at HBC on or about November 2,
17 2000, at which time she was approximately 28 weeks pregnant with her third child. HBC
18 provided prenatal care for Milka F. until January 15, 2001, the date of the delivery. The
19 delivery occurred at the home of Milka F. and her husband, and was attended by
20 Respondent. Carson was also present at the patient's home. Shortly after the delivery,
21 Milka F. began hemorrhaging, and was transported by ambulance to Cedars-Sinai
22 Medical Center. At Cedars-Sinai, a vaginal laceration was repaired. The patient was
23 given IV fluids, and two units of packed red blood cells. She was discharged from
24 Cedars-Sinai on January 17, 2001.

25 23. At a follow-up visit to HBC a number of weeks after the delivery,
26 Respondent told Milka F. that due to her anemia, having any more children would
27 endanger her health. Respondent recommended that the patient use birth control pills.
28 As an Orthodox Jew, Milka F. was required to obtain approval by a Rabbi before using

1 contraceptive pills. She therefore asked Respondent to put the health concerns in writing
2 for her Rabbi's review. Thereafter, Respondent gave Milka F. a letter dated February 22,
3 2001, addressed "To whom it may concern." The letter stated in part:

4 "As Milka [F.'s] health care providers, it is our professional opinion that
5 any subsequent pregnancies will seriously jeopardize her health. Milka has
6 chronic anemia. . . . In addition to her chronic anemia, Milka also has
7 varicosities that place her at risk for blood clots that can lead to possible
8 pulmonary and/or cardiac embolism. The risk for embolism increases
9 dramatically with the added physical strains of pregnancy and labor. We
10 sincerely believe that Milka should consider using birth control to ensure
11 her future safety and ability to care for her family. . . ."

12 This letter was signed by both Carson and Respondent. Carson's signature was
13 accompanied by the letters "DEM," which signify "direct entry midwife." Respondent's
14 signature was below that of Carson.

15 24. Carson's act of signing the February 22, 2001, letter in which she
16 identified herself as one of Milka F.'s health care providers, and in which she expressed a
17 "professional opinion" as to medical diagnoses and the advisability of Milka F.'s
18 utilization of contraception on medical grounds constituted the practice of medicine in
19 violation of sections 2052 and 2264 of the Code. Respondent knowingly and
20 intentionally aided, promoted, encouraged and instigated this act of unlawful practice of
21 medicine by Carson.

22

23 SECOND CAUSE FOR DISCIPLINE

24 (Gross Negligence—Patient Tara P.)

25 25. Respondent is subject to disciplinary action under sections 2519,
26 subdivision (a)(1), 2519, subdivision (e), and 2234, subdivision (b), of the Code for
27 acting with gross negligence in carrying out the usual functions of a licensed midwife,
28 and in the care and treatment of Patient Tara P. The circumstances are as follows.

- 1 2. Revoking, suspending or denying approval of Constance Jean
2 Rock's authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3 3. Ordering Constance Jean Rock to pay the Division of Licensing the
4 reasonable costs of the investigation and enforcement of this case, and, if placed on
5 probation, the costs of probation monitoring;
6 4. Taking such other and further action as deemed necessary and
7 proper.

8 DATED: May 17, 2005

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11 DAVID T. THORNTON
12 Executive Director
13 Midwifery Program
14 Department of Consumer Affairs
15 State of California
16 Complainant
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